

REMARKS

Claims 1, 2, 10, 11, and 14 have been amended. Claim 34 is canceled. Claims 36, 37, 43 and 44 are withdrawn.

Although not agreeing that the restriction requirement is proper, Applicants have amended claims 1, 2, and 14 to be commensurate with the election of Group I. Accordingly, the subject matter of heteroaryl unsubstituted and substituted has been deleted. In claim 14, the compound cis-2,6-dimethyl-piperazine-1-carboxylic acid 4-(3,5-dimethyl-isoxazol-4-ylmethoxy)-2,6-difluoro-benzyl ester has been deleted. Applicants reserve the right to file the deleted subject matter in a divisional application.

Applicants request rejoinder of withdrawn claims 36, 37, 43 and 44.

Applicants have amended claim 1 to exclude the compound of Example 7, i.e., piperazine 1-carboxylic acid 2-chloro-benzyl ester hydrochloride. Claims 1 and 2 have been amended to remove unsubstituted aryl as an option for A². Claims 1 and 2 have been amended such that A² as substituted aryl includes the substituents previously recited, except for nitro.

Applicants have also made amendments to claims 1, 2, 10 and 11 with regard to A² to clarify the substituents to which are referred. No new matter has been added by the amendments.

With regard to the rejections under 35 USC § 102, Applicants submit that the rejections have been obviated with respect to the Toldy Abstract, the Aicher Abstract and the Kawamoto Chem Abstracts references by the present amendments. Reconsideration and withdrawal of the rejections under 35 USC § 102 are requested.

The Examiner has rejected claims 1-13, 33-35, and 38-42 under 35 USC § 112, second paragraph. Applicants submit that cancellation of claim 34 obviates the rejection as to that claim.

With regard to the Examiner's rejection that claims are indefinite because the phrase "pharmaceutically acceptable esters" is of indeterminate scope, Applicants refer the Examiner to page 10, paragraph 42 of the specification. The disclosure indicates that hydroxyl groups can be esterified. Examples of esters that may be produced are provided. One skilled in the art would understand in view of the disclosure, what esters may be obtained.

Claims 1-10, 12, 13, 33-35, and 38-42 have been rejected under 35 USC § 112, first paragraph, as not enabled by the specification. Applicants submit that the amended claims satisfy the enablement requirement of 35 USC § 112, first paragraph. Applicants are entitled to protection of the compounds, as well as salts, solvates or esters thereof of

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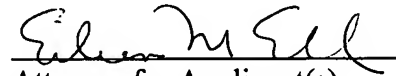
the present invention. For the Examiner to make a valid non-enablement rejection, sufficient scientific evidence must be presented to demonstrate that the specification is non-enabling. It is submitted that the rejection has been overcome.

Reconsideration and withdrawal of the rejections under 35 USC § 112 are requested.

The Supplemental Information disclosure Statement dated April 11, 2003, of which the Examiner received only the Form 1449 will be re-submitted in due course.

A Petition for Extension of Time – 1 month – is enclosed. If any required fees are missing or deficient, please charge our deposit account no. 08-2525.

Respectfully submitted,



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